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SYLLABUS:

The position of member of a municipal civil service commission appointed under Section 143.30, Revised Code, is not incompatible with the office of member of a board of township trustees.

Columbus, Ohio, February 11, 1963

Hon. Dennis J. Callahan
Prosecuting Attorney
Lawrence County
Ironton, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“The question has arisen as to whether an individual who holds the office of Township Trustee and Municipal Civil Service Commissioner, can do so, or if they are illegally held or incompatible. I request your opinion on the same.

“Also, should they be illegally held or incompatible, and should the trustee position be the first acquired, which position is now valid?”

Neither the Constitution nor the statutes prohibit the concurrent holding, by a single person, of the office of member of the board of township trustees and the position of member of a municipal civil service commission. Since there is no such express prohibition, the rules of the common law control the question of incompatibility.

“Offices are considered incompatible when one is subordinate to, or in any way a check upon, the other, or when it is physically impossible for one person to discharge the duties of both.” This oft-quoted articulation of the common law is from the case of *The State of Ohio, ex rel. Attorney General v. Frank Gerbert*, 12 C.C. (N. S.), 274, decided in 1909.

A board of township trustees, to which the members are elected conducts the business of a township and manages its affairs. Such a board does not deal with a municipal civil service commission, with commissioners as such, or with employees of such a commission. See Title 5, Revised Code.

A municipal civil service commission, to which the members are appointed but from which they may not be removed except for statutory cause, manages the system of the civil service of the municipality. Such a commission does not deal with a township, with a board of township trustees, with trustees as such, or with employees of such a township. See Chapter 143, and Title 7, Revised Code.

Since the general nature of a municipal civil service commission and a board of township trustees includes no common area of activity, I can find no way in which one would be either subordinate to the other or a check upon the other.

Neither the office of township trustee nor the position of civil service commissioner inherently involves full-time physical devotion to duty. “Part-time” is the basic description. It thus appears that a single person may well physically be able to fulfill all of the requirements.

Accordingly, I find that the position of member of a municipal civil service commission appointed under Section 143.30, Revised Code, is not incompatible with the office of member of a board of township trustees.

Since I find no incompatibility, there is no need for an answer to your second question.

Respectfully,
WILLIAM B. SAXBE
Attorney General